



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Ecology AO #10-09

- ☒ **Preproposal Statement of Inquiry was filed as WSR 11-17-113 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) Dam Safety – Chapter 173-175 WAC. The rule provides for the comprehensive regulation and supervision of dams in order to secure safety to life and property, including:

- Designates the types of dams the rule applies to.
- Provides for the design, construction, operation, maintenance, and supervision of dams consistent with accepted engineering practice.
- Establishes a fee schedule based on dam size for the engineering review of plans and specifications and the inspection of dam construction.
- Establishes requirements for planning and implementation for dam operation and maintenance, owner inspection, and emergency actions.
- Establishes a program for periodic safety inspection of existing dams and fee schedule based on downstream hazard classification.

Hearing location(s): Department of Ecology Regional Offices:

- SWRO, 300 Desmond Dr SE, Lacey, WA 98503
Date: December 7, 2011 Time: 6:00 pm
- CRO, 15 West Yakima Ave, Suite 200, Yakima, WA 98902
Date: December 8, 2011 Time: 6:00 pm

Date: December 7 and 8, 2011 Time: 6:00 pm

Date of intended adoption: December 23, 2011

(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Ben Bonkowski, Department of Ecology

Address: PO Box 47600

Olympia WA 98504-7600

e-mail: bbon461@ecy.wa.gov

fax: (360) 407-6574 by (date) 5:00 pm, December 16, 2011

Assistance for persons with disabilities: Contact

Barbara Anderson at (360) 407-6607 by December 1, 2011

TTY 771 or 1 (877) 833-6341

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This amendment will increase fees for the engineering review of dam construction plans and for periodic safety inspections to better reflect the actual cost of providing these services, and update the mailing address for submitting fees.

Reasons supporting proposal: Fees set in the current rule do not collect sufficient revenue to offset costs per RCW 90.03.470. Furthermore, the Legislature authorized Ecology to increase dam safety fees by up to 35 percent in Fiscal Year 2012 and up to 4.62 percent in FY 2013 as necessary to meet the actual costs of conducting business (2ESHB1087.SL). Based on this proviso, OFM directed Ecology to increase collected fees to recoup actual costs.

Statutory authority for adoption: Chapters 43.21A, 43.27A, 86.16, 90.03, 90.28, and 90.54 RCW. RCW 43.135.055 requires a majority vote of the legislature to raise or add fees. The 2011 Legislature authorized Ecology in Section 302(2) of 2ESHB 1087.SL to increase dam safety fees by up to 35% in fiscal year 2012, and 4.62% in fiscal year 2013 as necessary to recover costs.

Statute being implemented: Section 302(2) of 2ESHB 1087.SL and RCW 90.03.470

Is rule necessary because of a:

Federal Law?

☐ Yes

☒ No

Federal Court Decision?

☐ Yes

☒ No

State Court Decision?

☐ Yes

☒ No

If yes, CITATION:

DATE

10/28/11

NAME (type or print)

Polly Zehm

SIGNATURE

Polly Zehm

TITLE

Deputy Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 31, 2011

TIME: 11:05 AM

WSR 11-22-056

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Rebecca Inman	300 Desmond Dr, Lacey, WA 98503	(360) 407-6450
Implementation....Jerald LaVassar	300 Desmond Dr, Lacey, WA 98503	(360) 407-6625
Enforcement..... Jerald LaVassar	300 Desmond Dr, Lacey, WA 98503	(360) 407-6625

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☒ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Water Resources Program Publications

Address: PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6872

fax (360)407-7162

e-mail WRPublications@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Water Resources Program Publications

Address: PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6872

fax (360)407-7162

e-mail WRPublications@ecy.wa.gov

☐ No: Please explain: